

AMENDED IN SENATE JULY 3, 2003
AMENDED IN SENATE JUNE 30, 2003
AMENDED IN ASSEMBLY JUNE 3, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1049

Introduced by Assembly Member Calderon
(Principal coauthor: Assembly Member Wyland)

February 20, 2003

An act to amend Section 791.12 of, ~~and to add Section 791.12.5 to,~~
the Insurance Code, relating to underwriting.

LEGISLATIVE COUNSEL'S DIGEST

AB 1049, as amended, Calderon. Insurance: underwriting: information.

Existing law prohibits an insurance institution or agent from reaching specified adverse underwriting decisions, including denial or cancellation of insurance coverage, based on personal information received from an insurance-support organization whose primary source of information is insurance institutions, except that an insurance institution may reach an adverse underwriting decision based on further personal information obtained as the result of information received from an insurance-support organization.

This bill would, in addition, prohibit an insurance institution or agent from basing an adverse underwriting decision on ~~any indication of a claim appearing on a loss history report received from a loss~~

~~underwriting database or claim history information exchange program, unless the report indicates that a payment was made to the claimant, if the insurer is informed by the applicant, upon solicitation by the insurance institution or agent prior to the decision becoming effective, that (1) the notice of loss that served as the basis for the indication of a claim was only an inquiry and that the applicant did not intend to file a claim, (2) there was no damage to the insured property, nor was there injury or damage that could result in liability and (3) the loss history indicates that the notice of loss that served as the basis for the indication did not result in a payment to the insured~~ *the fact that an individual has previously inquired and received information about the scope or nature of coverage under a residential fire or property insurance policy, if the information is received from an insurance-support organization whose primary source of information is insurance institutions and the inquiry did not result in the filing of a claim.* The bill would also prohibit an insurance institution or agent from basing an adverse underwriting decision on an indication appearing ~~in this type of~~ *on a specified loss history* report that a single claim within the previous 3-year period was closed without payment. ~~The bill would authorize applicant inquiries regarding understanding or clarifying policy coverage, and prohibit the inquiries from having a detrimental impact on the applicant's loss history report.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 791.12 of the Insurance Code is
2 amended to read:
3 791.12. No insurance institution or agent may base an adverse
4 underwriting decision in whole or in part:
5 (a) On the fact of a previous adverse underwriting decision or
6 on the fact that an individual previously obtained insurance
7 coverage through a residual market mechanism; provided,
8 however, an insurance institution or agent may base an adverse
9 underwriting decision on further information obtained from an
10 insurance institution or agent responsible for a previous adverse
11 underwriting decision. The further information, when requested,
12 shall create a conclusive presumption that the information is
13 necessary to perform the requesting insurer's function in



1 connection with an insurance transaction involving the individual
2 and, when reasonably available, shall be furnished the requesting
3 insurer and the individual, if applicable.

4 (b) On personal information received from an
5 insurance-support organization whose primary source of
6 information is insurance institutions; provided, however, an
7 insurance institution or agent may base an adverse underwriting
8 decision on further personal information obtained as the result of
9 information received from an insurance-support organization.

10 ~~(c) On any indication appearing on a loss history report~~
11 ~~received from a loss underwriting database or claim history~~
12 ~~information exchange program where the following is true:~~

13 ~~(1) The notice of loss that served as the basis for the indication~~
14 ~~of a claim was only an inquiry and that the applicant did not intend~~
15 ~~to file a claim.~~

16 ~~(2) There was no damage to the insured property, nor was there~~
17 ~~injury or damage sustained that could result in liability, related to~~
18 ~~or arising out of the event that was the basis for the inquiry.~~

19 ~~(3) The loss history report indicates that the notice of loss that~~
20 ~~served as the basis for the indication did not result in a payment~~
21 ~~made to the insured.~~

22 ~~(4) An insurance institution or agent must affirmatively solicit~~
23 ~~confirmation from the insured that paragraphs (1), (2), and (3) of~~
24 ~~this subdivision have been satisfied prior to an adverse~~
25 ~~underwriting decision becoming effective.~~

26 ~~(c) On the fact that an individual has previously inquired and~~
27 ~~received information about the scope or nature of coverage under~~
28 ~~a residential fire or property insurance policy, if the information~~
29 ~~is received from an insurance-support organization whose primary~~
30 ~~source of information is insurance institutions and the inquiry did~~
31 ~~not result in the filing of a claim.~~

32 (d) On an indication appearing on a loss history report received
33 from a loss underwriting database or claim history information
34 exchange program that a single claim within the previous
35 three-year period was closed without payment.

36 SEC. 2. ~~Section 791.12.5 is added to the Insurance Code, to~~
37 ~~read:~~

38 ~~791.12.5. (a) An applicant may make as many mere inquiries~~
39 ~~of their insurance institution for the purpose of understanding or~~
40 ~~clarifying their policy coverage as the applicant chooses. These~~

1 ~~inquiries, provided there has been no damage to the property, and~~
2 ~~that no payment has been made, may not have any detrimental~~
3 ~~impact to the policy holder's loss history report.~~
4 ~~(b) An insurance institution may base an adverse underwriting~~
5 ~~decision upon an indication appearing on a loss history report~~
6 ~~received from a loss underwriting database or claim history~~
7 ~~information exchange program if the loss history report indicates~~
8 ~~that a payment was made to the applicant.~~

